

Recommendations of the European Ombudsman in the joint inquiry into complaints 1337/2017/EA and 1338/2017/EA on the accessibility for visually impaired candidates of selection procedures organised by the European Personnel Selection Office

Recommendation

Case 1338/2017/EA - Opened on 14/03/2018 - Recommendation on 14/12/2018 - Decision on 03/06/2019 - Institutions concerned European Personnel Selection Office (Maladministration found) | European Personnel Selection Office (Recommendation agreed by the institution) |

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The case concerned two complaints from visually impaired candidates who participated in selection procedures organised by the European Personnel Selection Office ('EPSO'). The complainants faced issues with the accessibility of the online application form, including the form for requesting measures to accommodate their special needs, as these were not fully accessible for users of screen readers. The complainants also considered that EPSO had failed to accommodate their needs during the computer-based tests, as the measures taken did not correspond to the requests they had submitted and did not enable them to sit the tests independently.

The Ombudsman finds that while EPSO has made efforts to improve accessibility of its selection procedures, the delay in fulfilling its commitment to deliver a new online application form meeting accessibility requirements constitutes maladministration. She recommends that EPSO ensure that its online application form for selection procedures is made fully compliant with accessibility requirements for visually impaired candidates as soon as possible.

Moreover, the Ombudsman recommends that EPSO explicitly inform candidates that



certain options for accommodating special needs, such as assistive technologies, are currently available only at specific stages of selection procedures. The Ombudsman further recommends that EPSO set out a detailed timeline for ensuring that assistive technologies are provided to candidates during the computer-based tests which take place in testing centres around the world.

Made in accordance with Article 3(6) of the Statute of the European Ombudsman [1]

Background to the complaints

1. The complainants, who are visually impaired, took part in selection procedures organised by the European Personnel Selection Office (‘EPSO’) in 2016 and 2017. They had problems with the accessibility of EPSO’s online application form — including the form for requesting measures to accommodate their special needs (‘reasonable accommodation’ [2]) — and with the accessibility of the computer-based tests they sat.

2. The complainants raised these problems with EPSO many times.

3. The complainants were dissatisfied with EPSO’s response and turned to the Ombudsman.

The inquiry

4. The Ombudsman opened an inquiry on 14 March 2018. She identified the following three concerns raised by the complainants:

· EPSO’s online application form, including the form to request accommodation for special needs during the tests, is not fully accessible to visually impaired candidates who use ‘screen readers’ [3] to read webpages.

· The complainants either opted for a “*screen reader*” and “*refreshable braille display*” [4] when filling out the online form to request accommodation of their special needs, or subsequently asked for a screen reader. However, these options were not available to them when they sat their computer-based tests. Instead, they were provided with braille transcriptions of the tests and a sighted assistant.

· The measures put in place by EPSO meant that visually impaired candidates could not sit the computer-based tests independently. They needed an assistant. As such, the measures could not be considered to comply with the concept of ‘reasonable accommodation’, as provided for under the UN Convention on the Rights of Persons with Disabilities (‘UNCRPD’) [5] .

5. In the course of the inquiry, the Ombudsman asked EPSO to reply to questions [6] and held a meeting with EPSO [7] . One of the complainants submitted comments on EPSO’s reply and on the meeting report.



I. Accessibility of EPSO's online application form, including the form for requesting measures to accommodate special needs

Arguments presented to the Ombudsman

6. According to the complainants, the online application form used by EPSO, including the form to request accommodation for special needs during the tests, is not fully accessible to visually impaired candidates who use screen readers to read webpages. The complainants needed to fill it out with the help of a sighted person or to contact EPSO for help.

7. In its reply to the Ombudsman, EPSO acknowledged that the online application form is still not fully accessible to users of screen readers.

8. EPSO explained that a new 'Candidate Portal' which is being developed by the European Commission's Directorate-General for Informatics ('DG DIGIT'), will make a fully accessible online application form available for the visually impaired. While this portal was initially due to come online before March 2017, this was stalled as DG DIGIT acknowledged two weeks before the launch date that it would not be able to deliver on time.

9. EPSO attributes the delay to i) a number of conflicting priorities with other IT projects, ii) technical constraints, iii) the complexity of the underlying data model, as well as iv) potential IT governance weaknesses at corporate level [8] .

10. The development of the Candidate Portal was put on hold in September 2017. As its development is not fully under EPSO's control, EPSO said that it cannot specify a date for its launch.

11. EPSO added that updating the existing online application form to make it accessible to users of screen readers was complicated due to the IT constraints of the current system. EPSO said that it would also cause delays to the delivery of the new form.

12. Regarding the online form for requesting accommodation for special needs, EPSO explained that a section in the current online application form allows candidates to specify whether they are in need of accommodation measures. Candidates who have made such a request are then asked to fill in a questionnaire covering their disability and their preferred accommodation measure.

13. EPSO noted that if candidates have problems with the online form, EPSO sends them a word version to fill in and EPSO itself then fills in some of the information. Candidates are informed about this possibility from the beginning of the selection process.



14. In her comments, the complainant said that when filling out the online application form in 2018, she faced the same accessibility issues she faced in 2016 and 2017. She referred, by way of example, to the 'personal info' section and the calendars under 'education' and 'professional experience' which are still not accessible.

15. As the complainant had not asked for an alternative format of the online form, she could not confirm whether the alternative format is screen reader accessible. In her view, however, she should not have to ask for an alternative format, as all other formats, such as Word and PDF, have their accessibility drawbacks. The web format provides the best accessibility functionalities for all assistive technologies, including screen readers.

The Ombudsman's assessment

16. The UNCRPD came into force in the EU in January 2011. In 2015, the EU underwent its first review in terms of compliance with the UNCRPD. In its concluding observations on the EU's implementation of the UNCRPD, the UN Committee on the Rights of Persons with Disabilities ('UN Committee') noted that the EU institutions "*are not role models with regard to employment of persons with disabilities*". It recommended that the EU "*increase employment of persons with disabilities*" in all EU institutions [9]. These points are of particular relevance to EPSO, given its responsibility for selecting EU staff.

17. The UN Committee further noted that "*not all the websites of the various European Union institutions are fully implementing accessibility standards*" and recommended that the EU "*take the necessary measures to ensure the full application of web accessibility standards*" to its websites [10].

18. Ho The UN Committee's findings are from 2015. While EPSO has made efforts to improve accessibility of its selection procedures, the first time one of the complainants raised the issues set out in this complaint was in 2016. The matter has still not been resolved, despite statements made by EPSO that it would be. No date has been advanced as to when it will be resolved. It cannot be good administration that the matter persists with the result that persons with visual disabilities continue to experience problems in their efforts to apply for selection procedures run by EPSO. The Ombudsman makes a recommendation to EPSO below.

II. Accessibility of the computer-based tests

Arguments presented to the Ombudsman

19. The complainants point out that the measures EPSO has in place mean that visually impaired candidates cannot sit the computer-based tests independently. As such, the



measures cannot be considered to comply with the concept of 'reasonable accommodation', as provided for in the UNCRPD.

20. For example, one of the complainants stated that, when filling out the online form to request accommodation for special needs, she ticked the options " *screen reader* " and " *refreshable braille display* ". The other complainant, who was unable to fill out the online form by himself, asked for a screen reader. Options such as " *screen readers* " and " *braille keyboard* " are listed under the available equipment on EPSO's webpage " *Equal opportunities* " in the section " *What type of special adjustments can I expect?* " [11] However, neither of these assistive technologies was made available to the complainants during their computer-based tests. They had to rely instead on a sighted assistant and braille transcriptions of the tests.

21. EPSO noted that candidates are informed that the type of accommodation actually provided may differ from the one requested. This information is provided in different ways, including via EPSO's webpage on " *Equal opportunities* " and the information form on special needs that candidates need to fill in to request special adjustments.

22. According to EPSO, all the measures listed on the website and the information form on special needs are feasible and have been requested and granted in the past at various stages of the selection process. However, not all measures are feasible at **all** stages.

23. By way of example, assistive technologies are currently not available during the computer-based tests held in various testing centres around the world. Contractors cannot always provide specific assistive technologies. However, assistive technologies can be provided at the assessment centre stage which takes place on EPSO's premises.

24. EPSO added that it is exploring all possible options to allow the use of assistive technologies at the stage of the computer-based tests. A solution that is being worked on involves the use of a laptop containing assistive software.

25. In reply to EPSO's explanation that assistive technologies are provided at the assessment centre stage, the complainant noted that this information is not available on EPSO's website. This information should be made available so that candidates know what accommodation measures they can expect at each stage.

26. The complainant added that she took her computer-based tests for another EPSO competition in 2018. The accommodation measures were the same as before, namely braille transcription of the tests and a sighted assistant.

27. The complainant made the point that the use of screen readers for visually impaired persons is not a personal choice, but the only means through which they can use a computer. The choice of specific brands of screen readers or of text-to-speech tools that are installed on those screen readers can be considered a personal preference. In the complainant's case, this would allow her to listen to a text in English with many different



voices and to select the voice she prefers or understands best.

The Ombudsman's assessment

Sitting tests independently

28. Enabling a person to sit the tests independently is vital to ensuring that person's sense of dignity and equality with all other persons. Assistive technologies are crucial in that respect [12]. By way of example, the complainant can only use a computer by means of a screen reader.

29. Given that visually impaired persons are often dependent on assistive technologies, assistive technologies should, to the greatest extent possible, be made available to them, upon request, when they have to sit computer-based tests in selection procedures. The Ombudsman finds EPSO's practice to date, in this area, to constitute maladministration.

30. It is not appropriate to expect visually impaired persons to sit such tests under conditions that are totally alien to them. Such a practice is bound to give rise to frustration and to exacerbate what is, by its very nature, a relatively stressful experience. It risks impacting upon their performance in selection procedures that are already highly competitive.

31. The Ombudsman understands that providing assistive technologies for computer-based tests which take place in testing centres around the world may be a challenge for EPSO and may take some time to put in place. She further notes EPSO's current efforts to make assistive technologies available at the computer-based test stage taking place at testing centres around the world, including via the use of a laptop containing different assistive software.

32. The Ombudsman recommends that EPSO set out a detailed timeline for this process, prioritising certain actions, for example, providing assistive technologies depending only on software solutions. This process should gradually lead to the provision of assistive technologies for computer-based tests in all testing centres. In this regard, EPSO should take into account the provision of assistive technologies in any future contracts with providers of testing centres.

33. The Ombudsman also understands that persons with visual impairments may find it difficult to carry out a computer-based test with a screen reader they are not used to. She encourages EPSO to take this into account as it comes forward with solutions. It could consider, for example, providing candidates with different screen reader options, giving them the opportunity to test the screen reader before their test, or giving them the opportunity to take the test on their own laptop.



Information about the options available to accommodate special needs

34. Although applicants are informed that the accommodation measures actually made available may differ from what is requested, EPSO does not currently state explicitly that certain accommodation measures that are listed are possible only at certain stages of the selection process. For example, candidates are not informed that assistive technologies are not available at the computer-based tests when these are carried out in testing centres around the world.

35. The Ombudsman considers this lack of appropriate information also to constitute maladministration. The Ombudsman therefore recommends that candidates should be explicitly informed that certain accommodation measures, such as assistive technologies, are available only at certain stages of selection procedures. EPSO should modify its webpage on "*Equal opportunities*", as well as the online form for requesting accommodation for special needs, in order to clarify this point.

Recommendations

On the basis of the inquiry into this complaint, the Ombudsman makes the following recommendations to EPSO:

The European Personnel Selection Office should:

- 1. ensure that its online application form for selection procedures is made fully compliant with accessibility requirements for visually impaired candidates as soon as possible;**
- 2. set out a detailed timeline for making assistive technologies available to candidates during the computer-based tests which take place in testing centres around the world;**
- 3. explicitly inform candidates that certain 'reasonable accommodation' options, such as assistive technologies, are currently available only at specific stages of selection procedures.**

EPSO and the complainants will be informed of these recommendations. Given the role of DG DIGIT, the Commission will also be informed.

In accordance with Article 3(6) of the Statute of the European Ombudsman, the European Personnel Selection Office shall send a detailed opinion by 14 March 2019.

Emily O'Reilly



European Ombudsman

Strasbourg, 14/12/2018

[1] Decision of the European Parliament of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties (94/262/ECSC, EC, Euratom), OJ 1994 L 113, p. 15.

[2] According to the definition contained in the UN Convention on the Rights of Persons with Disabilities (see footnote 5 below), 'reasonable accommodation' means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

[3] A screen reader is a software application that enables the user to "hear" or "read" what is usually "seen" on a screen including the digital content. It can provide information to users through speech and sound output (that is text to speech) or in Braille (in other words, rendering the content in Braille using a refreshable Braille display), on their own or in combination.

[4] See footnote above.

[5] UN Convention on the Rights of Persons with disabilities, adopted on 13 December 2006 during the sixty-first session of the General Assembly by resolution A/RES/61/106 and approved on behalf of the EU by Council Decision 2010/48/EC of 26 November 2009 (OJ 2010 L 23, p.35). The Convention is available at the following link:
<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

[6] The Ombudsman's letter opening the inquiry is available at the following link:

<https://www.ombudsman.europa.eu/en/correspondence/en/93846>

EPSO's reply is available at the following link:

<https://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/99008/html.bookmark>

[7] The meeting report is available at the following link:

<https://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/99007/html.bookmark>

[8] EPSO did not explain what it meant by this but noted that IT governance weaknesses were identified by the Internal Service audit on the management of IT programmes and projects in the area of human resources at the end of 2017.



[9] Concluding observations regarding the EU's implementation of the Convention on the Rights of Persons with Disabilities, 2 October 2015. See points 88-89.

[10] See points 82-83 of the concluding observations.

[11] https://epso.europa.eu/how-to-apply/equal-opportunities_en

[12] Article 9 UNCRPD on "Accessibility" provides that States Parties shall take appropriate measures to ensure to persons with disabilities access to facilities and services on an equal basis with others, so as to enable them to live independently and participate fully in all aspects of life.